

**AREA PLAN COMMISSION OF TIPPECANOE COUNTY
ORDINANCE COMMITTEE
MINUTES OF A PUBLIC HEARING**

DATE.....APRIL 06, 2022
TIME..... 4:40 P.M.
PLACE.....COUNTY OFFICE BUILDING
20 N. 3RD STREET
LAFAYETTE, IN 47901

This meeting was held in-person. Members of the public could watch the livestream of the meeting at <https://www.facebook.com/TippecanoeCountyIndiana> or <https://www.youtube.com/channel/UCJleeA9ZQo9E11GdZTdjurQ/featured>

MEMBERS PRESENT

Jackson Bogan
Vicki Pearl
Greg Jones
Kathy Parker
Gary Schroeder
Tom Murtaugh
Larry Leverenz
Jerry Reynolds

MEMBERS ABSENT

STAFF PRESENT

David Hittle
Ryan O’Gara
Kathy Lind
Eric Burns, Atty.
Jennifer Ewen

Gary Schroeder called the meeting to order at 4:40 PM.

I. APPROVAL OF MINUTES

Jerry Reynolds moved to approve the minutes from the March 2, 2022 meeting. Greg Jones seconded, and the minutes, as submitted, were approved by unanimous voice vote.

II. ISAIAH HOUSE AMENDMENT

Tom Murtaugh stated there was a request that came forth and during the many discussions that happened with the petitioner, APC, and the neighborhood, somebody brought up that perhaps this should be allowed in a residential zone with a special exception. He said it does make sense because we do have group homes around the community and some for-profit companies that operate group homes around the community, and those are allowed in residential areas, so we thought maybe doing the same for this kind of use instead of having to rezone the property to NB.

Kathy Lind stated the ordinance currently reads this use requires neighborhood business zoning. The Isaiah House is a business that whenever children or teenagers are taken from a dangerous situation and before a foster family can pick them up, there is no place for them to wait, and that is what the Isaiah House is all about giving them a safe place. Sometimes it might happen at night where they may need place to sleep; other times, they wouldn’t. This works best when it is in a house instead of an office space. What we are proposing is a definition for a Haven Home. A Haven Home would be a social service facility assisting children awaiting foster care placement. She asked for any questions about the definition.

Vicki Pearl asked we are recommending that this is the same as a group home.

Kathy Lind stated yes. We would allow a special exception in all residential zones which is the same as we do for group homes.

Eric Burns asked isn’t there a type of group home that is allowable byright in a residential zone.

Kathy Lind responded I believe you right by state statute for the mentally deficient.

Tom Murtaugh asked would there be any other use we could think of besides foster care. Is foster care limiting what we are wanting to do here too much. Possibly use the wording, a social service facility assisting individuals awaiting long-term placement.

Kathy Lind asked should we say individuals, children, and teenagers.

Jackson Bogan asked is there a situation we could have where we are waiting for placement of someone over 18.

Vicki Pearl stated a women's shelter.

Jackson Bogan responded good point, but they are not being placed at a women's shelter. They are living there. This situation is specifically referring to the placement of people into the custody of others.

Kathy Lind responded correct. This would take care of the problem we had where we didn't have a definition for this type of use, so it just fell under social service facility which generally those are offices, and NB and GB zones would make sense. In this case, this is really a house.

Larry Leverenz asked if foster care is a specific program or is it a general term.

Kathy Lind responded it is a specific program.

Vicki Pearl stated instead of it saying awaiting foster care placement, how about it just says awaiting placement.

Kathy Lind agreed.

Eric Burns suggested adding the word temporary. He stated they said these are almost always within 24 hours, but they did say almost always, so they could be there longer, but temporary would speak to the fact that this isn't for someone to live here, but it also is not putting a time limit.

Jackson Bogan suggested to add a reasonable time frame at the end. It should say a social service facility assisting children awaiting foster care placement not to exceed 24 or 72 hours for example.

Ryan O'Gara stated per Isaiah House they said it almost never exceeds one day. Normally they find a place for the child within 24 hours.

Jackson Bogan suggested 72 hours.

Eric Burns stated it should say no more than 72 hours.

Gary Schroeder asked if anyone had the final wording for us to consider.

Kathy Lind stated what she wrote down is a social service facility assisting individual children awaiting temporary placement not to exceed 72 hours.

Eric Burns suggested to remove the words temporary and individual.

Tom Murtaugh stated he would rather have the time defined within the petition.

Ryan O'Gara stated that is the other way to do it. That the petitioner controls it not the definition. Then it could be variable from site to site and petition to petition.

Jackson Bogan asked what if someone forgets to put a timeframe on the actual petition.

Kathy Lind stated every special exception petition includes a timeframe.

Jackson Bogan asked how would we make sure that they are citing a specific time limit, so it does not turn into a foster home.

Ryan O'Gara stated it would make sense to have it in the definition, but it is very specific narrowly focused defined term that does have an upper limit to how long someone can stay there.

Kathy Lind asked if we are back to not to exceed 72 hours.

Jackson Bogan responded yes.

Tom Murtaugh agrees that 72 hours should be sufficient.

Gary Schroeder asked Kathy Lind for a final reading of the Amendment.

Kathy Lind read the final definition for a Haven Home. Haven Home, a social service facility assisting children awaiting placement not to exceed 72 hours.

Jackson Bogan moved that the Isaiah House Amendment is sent to the full APC. Tom Murtaugh seconded, and the motion carried by unanimous voice vote.

III. SELF-STORAGE WAREHOUSES

Kathy Lind stated where we left off last month was the Ordinance Committee wanted to have a stipulation that exempted businesses that have already received an improvement location permit at the time of the adoption of this amendment. She said she doesn't feel like it is necessary because of the 6-4-4 Special Exceptions which reads: *A grant of special exception is unnecessary for a use authorized by 3-2 above if that use existed on the effective date of this ordinance or pertinent amendments to it. However, this subsection does not authorize the expansion of such a use if it involves the enlargement of a building, structure, or land area.* She said they are legally non-conforming.

Ryan O'Gara stated according to this, they are legally conforming. If they wanted to expand, they would just have to get a special exception.

Jackson Bogan stated if the place blows away, they can rebuild exactly what they had there if they get a special exception, and that is where the issue lies with him.

Dennis Carson, City of Lafayette Economic Development Director, stated what is presented on the screen is what the City of Lafayette would like to seek your support on. They are not against self-storage, but they would like to have some ability to control that and have some input on those activities. He stated in an instance where there was an existing self-storage that burnt down by a fire, we would prefer to see that it had to come back under a special exception, so we would have a process to negotiate that. For Example, the former Coke Bottling facility, which is going to be self-storage, under this they can stay as-is, but if they would want to expand on that property or make any changes then they would need a special exception.

Jackson Bogan asked staff what percentage of damage is required for a special exception.

Kathy Lind stated she believes it is 50%. Last month someone asked how many self-storage warehouse businesses were within that area, and the answer is two. One is the Coke Bottling Plant, and the second is on 15th Street.

Eric Burns stated he is hearing two things. One is if it burns down and you want to rebuild and expand, expand being the key, you have to have a special exception. I am also hearing that if it burns down and

you want to rebuild, you need a special exception.

Dennis Carson, City of Lafayette Economic Development Director, responded yes, that is correct. That is his understanding, and that is what they are supporting for the City of Lafayette.

Vicki Pearl stated she doesn't think anyone has a problem with anything new going on; the main concern is the two that exist.

Gary Schroeder asked to see the Urbanized Sewered Area map again. After this discussion, it sounds like there are more than two self-storage warehouses that would be affected.

Larry Leverenz asked Jackson Bogan to explain the insurance concern.

Jackson Bogan stated insurance coverage referred to as ordinance or law, and in the absence of it the insurance company will pay the actual cash value of it, not the replacement cost, and everybody here probably has what is referred to as a replacement cost policy, so it really decreases the amount of insurance that one could recoup by having that in place if they can't rebuild it, so if you can't rebuild it, then you get the actual cash value settlement of it which takes depreciation into consideration. For example, if you had a million-dollar building and it was old and would cost a million dollars to rebuild it, but because it is really old, the insurance company is going to depreciate that to a maximum of typically 50%, so now all of a sudden, the insured only get \$500,000, and they can't rebuild what was there.

Dennis Carson, City of Lafayette Economic Development Director, stated this would not be prohibiting that rebuild; they would just have to go through a special exception process for that.

David Hittle stated what you are talking about applies to all grandfathered legal non-conforming uses.

Gary Schroeder stated that is why we have an opinion that this should not be grandfathered; it should be byright use.

Steve Clevenger, 4011 Black Forest Lane, West Lafayette, stated by reading the definition of a non-conforming use, does a primary use of a structure or lot which is not permitted in 3-2 to be operated in the zone in which it is located in which otherwise lawfully existed at the time of the applicable portion of 3-2 became effective. He questions whether or not something that now requires a special exception falls under that because it is permitted by special exception; it is not that it is not permitted, so it is not non-conforming; therefore, he doesn't think there is anything in the ordinance that says if it burns down if it is not non-conforming by a certain percentage, they would require a special exception. In the section he pointed out, it says that it does not require a special exception as long as they are not expanding. He fails to see what triggers the special exception, and he would say it is probably up to the Administrative Officer to decide whether or not it would require a special exception.

Ryan O'Gara stated a legal interpretation could be made because the ordinance in Chapter 6 only mentions expansion not rebuilding because of casualty. He said there is a distinction between being non-conforming to the zone or being conforming to the zone with a special exception. That ordinance in Chapter 6 would seem to protect uses that didn't come in with a special exception.

Eric Burns stated it is important to remember you folks can do what you want in this area. State law gives you that latitude to draw the boundaries as you choose as long as it is not a taking. He suggests that a decision is made from a strategic standpoint.

Gary Schroeder asked what the definition of a *taking* is.

Eric Burns responded you can't take rights away without just compensation; however, there is an exception to that, and it is called zoning, so there is the ability because the law does not favor non-conforming uses.

Steve Clevenger, 4011 Black Forest Lane, West Lafayette, stated the one thing that is different about this

is this is something that is currently permitted, and we are changing it to require a special exception. We have had very few changes in the ordinance that has gone along those lines.

Gary Schroeder stated we have issues on the table. Do we want to make a decision as what we discussed before and do a date specific or take the recommendation from the staff.

Gary Schroeder moved to move forward with the change to the UZO and insert some sort of language that says except for uses that were in place on April 1, 2022 will continue to operate under byright statute. Anything going forward would need a special exception, but those existing by April 1, 2022 will maintain byright status. Larry Leverenz seconded.

Tom Murtaugh asked what zones are self-storage warehouses allowed in.

Kathy Lind responded self-storage warehouses are allowed in all three Industrial zones, General Business zones, and in NB with a special exception.

Gary Schroeder asked if everyone was ready to vote.

Jackson Bogan asked for clarification on what they are voting on. He stated by putting a date on it we are saying that the ones that are there if something would happen to those that are in this area, they would byright be able to rebuild basically the exact same thing that is sitting there today.

Eric Burns stated he wants everyone to be clear. What he is hearing with the motion is that they may get back what they have, or they may expand without a special exception.

Kathy Lind stated this would say self-storage warehouse businesses located in a zone, where they are permitted byright, Industrial or GB, but on property within the Urbanized Sewered Area shall be required to obtain a special exception except for those businesses that have already received an improvement location permit at the time of the adoption of this amendment.

Jackson Bogan stated his personal opinion is he is comfortable with the rebuilding of what they have, but he doesn't like the further expansion on top which is what he believes the city is concerned about.

Dennis Carson, City of Lafayette Economic Development Director, stated he still would prefer a special exception because in the future, things may change, and we may really want to see something different there. He would like the ability to weigh in on that.

Jackson Bogan moved to amend the original motion to not allow further expansion on the same piece of property. Tom Murtaugh seconded, and the motion carried by unanimous voice vote.

Dennis Carson, City of Lafayette Economic Development Director, stated he is happy to see the expansion piece taken out, but he is still in support of the idea of a special exception. It is contrary to what you are looking at right now.

Kathy Lind stated we would be adding; *except for those businesses that have already received an improvement location permit at the time of the adoption of this amendment, they will continue to operate in a byright status, but won't be allowed to further expand.*

Eric Burns noted may the record reflect unanimous voice vote on the Amendment.

IV. CITIZEN COMMENT

None.

V. ADJOURNMENT

Jackson Bogan moved to adjourn.

The meeting adjourned at 5:39 p.m.

Respectfully Submitted,

Jennifer Ewen
Recording Secretary

Reviewed By,

A handwritten signature in black ink, appearing to read "D. Hittle", with a horizontal line underneath.

David Hittle
Executive Director